

**EFFECTS OF CUSTOMARY LAW IN WIDOWS' INHERITANCE RIGHTS  
TO MATRIMONIAL PROPERTIES AT RUANDA WARD IN MBEYA CITY,  
TANZANIA**

**HABIBA A. IBRAHIM**

**A DISSERTATION SUMMITTED IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS FOR DEGREE OF MASTER OF SOCIAL WORK OF  
THE OPEN UNIVERSITY OF TANZANIA**

**2017**

**CERTIFICATION**

The undersigned certifies that, he has read and here by recommends for acceptance by the Open University of Tanzania a research entitled: **“Effects of Customary Law in Widows’ Inheritance Rights to Matrimonial Properties at Ruanda Ward in Mbeya City, Tanzania”**, in partial fulfillment of the requirements for the Degree of Masters of Social Work (MSW) of the Open University of Tanzania.

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Dr. A. Mwidege

(Supervisor)

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Date

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## DECLARATION

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Signature

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Date

**DEDICATION**

This work is dedicated to my beloved parents the late Mr. Amri Ibrahim and my Mother Mrs. Amri Ibrahim for their parental care and efforts which have led to my successful education career.

## **ACKNOWLEDGMENT**

During my research work, there are some people who in one way or another made significant contributions to enable me reach this final stage. Though, it is not easy to mention them all by their names; however, I cannot avoid mentioning some of them.

I return all praises and glory to God for protecting my physical and mental health throughout my studies and during the research undertaking.

I thank my supervisor Dr. A. Mwidege who played a key role in supervising me despite having other responsibilities, without him this work could not be a success. I also convey my sincere gratitude to my sponsor and my husband, Mr. Fabian Andrea Nkokoo for his sponsorship, encouragement constructive ideas and kindness that enabled me to undergo the whole academic requirements including this study more effectively. Special thanks go to my friends Itika Ngwakwa, Metusela Samwel Mbise and Sodana Ibrahim for supporting me during the whole period of undertaking the study. I really appreciate their contributions.

Moreover, my sincere thanks to my parents the late Mr. Amri Ibrahim and my mother Mrs. Amri Ibrahim, who provided their life time to love and support my academic pursuits. I continue to see their influence in every corner of my life. May God bless you all.

**ABSTRACT**

This study investigated the effects of customary law on widows' inheritance rights in matrimonial properties. The study sampled a total of 120 respondents using simple random, purposive and snow ball sampling techniques. Data were collected using questionnaires on a face to face, interview, observation and documentary reviews. Data analysis was done using SPSS version 16 for thematic analysis of quantitative and qualitative data respectively. Results indicated that social effects included the loss of friends and social support (39.1%), lack of respect among relatives (58.4%) and stigmatization especially by men (65.9%). Also, it was observed that, economic effects included poverty (75%), disinheritance of matrimonial properties (68.4%), property grabbing by relatives (75.9%) and loss of home assets (19.1%). The study concludes that the effects occurred because of the customary laws were ineffective in protecting widows' inheritance rights and matrimonial properties. It is therefore recommended that, there is a need to create widow related law groups, translate the existing customary laws into Swahili and conduct seminars and workshops that create awareness on the applicability of various customary laws geared at protecting widows' inheritance rights in matrimonial properties.

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## LIST OF ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
CEDAW	Convention on the Elimination Discrimination Against women
CESCR	Committee on Economic, Social and Culture Rights
COHRE	Centre on Housing Rights and Eviction
FAO	Food and Agriculture Organization
HIV	Human Immunodeficiency Virus
LMA	Law of Marriage Act
NO	Number
NOLA	National Organization for Legal Assistances
SPSS	Statistical Package for Social Science
TAWALA	Tanzania women's legal Association
UN	United Nation
USAID	United state Agency for International Development
WLSA	Women and Law in Southern Africa
WPIR	Women property and inheritance rights
TAWIA	Tanzania
TGNP	Tanzania Gender Networking Programme

## **CHAPTER ONE**

### **INTRODUCTION**

#### **1.1 Introduction**

This chapter covers background information, statement of the research problem, research objectives and research questions. It further presents the significance of the study and the limitations of the study.

#### **1.2 Background to the Problem**

In pre-colonial era, most communities ownership of important resources was communal, even where families and individuals, had right to use particular piece of land. These resources were used according to collective community rules. No single source controlled resources and access to them was limited to an identifiable community with set rules on the way those resources are to be managed (Patricia, 2002).

Most of communities organized along patriarchal lines where male is the head of the household, and succession to property was through the male lineage, where the basis for the male inheriting property was the fact that men stayed within the family unlike women who, when married left their domicile of origin and joined their husband families (*ibid*). Furthermore, Richardson (2004) explains, in many traditional societies in Sub-Saharan Africa land use, housing and the transfer of land housing between generations is regulated by customary law, which largely excludes women from property ownership and inheritance.

Looking at the lives of widows, most African countries have presented evidence that the matrimonial property of widows has been grabbed or stripped (Okuru, 2007). For example, it had been known that succession rights for the vast majority of Kenyans, like other African communities, are governed by customary norms, predominantly based on notions of patrilineal inheritance. Thus, in parts of Kenya, the only way for a widow to inherit her household's property is to allow herself to be 'inherited', and regarded as remarried, to one of her husband's male relatives. Such wife inheritance represents a clearly violent traditional way of providing widowed households a little economic and social protection (Mwangi, Kiai, & Eric, 2002).

Conversely, tangible inheritable items such as real property, financial assets and sometimes, the wives of the deceased, to younger members of the family is one form of concrete African expression of cultural bond. The matter of who passes what to whom communicates messages about relative worth, not just of 'property' but also of people, and of the bonds between them (Shipton, 2009). Otherwise, if a person does not leave any property to be inherited, he is laughed at and he is said to have been measly and good-for-nothing (Miettinen, 2005).

Evidence exists that outright grabbing of property from widows is a serious problem in Uganda. Of the widows surveyed in Uganda, 22 percent reported experiences of property grabbing or mismanagement of their property by relatives after their spouses had died (Wakhweya *et al.*, 2002). However, a study among the Langi of northern Uganda contrasts traditional and contemporary norms and practices concerning the support of widows' claims upon their families and communities (Oleke *et al.*, 2005). It is important to note that while property grabbing constitutes

gender-based violence against women, this does not imply that perpetrators are always men. For instance in matrilineal societies in the northern part of Namibia and in Zambia, sisters-in-law are said to be the main perpetrators, although in the event, it may be male relatives who physically remove property from widows and force them out of their homes (Izumi, 2003).

Tanzania (mainland) and other parts of the world, most women have been denied their basic right. Example, under closed traditional communities and in accordance with the existing traditions, customs, customary rule and culture most of women were denied the full enjoyments of socio-economic, education and political rights on equal footing with male members of their respective societies (Tanzania Widows Association (TAWIA), 2015).

Therefore, the law governing succession in Tanzania mainland is diverse as are communities making up our society. There are four competing legal systems which a deceased's estate may be administered especially when one dies without leaving a will. These systems of laws are statutes law, customary law, Islamic law and Hindu law (TAWIA, 2015). Statutes: This relevant law is the Indian succession act of 1865, which was made applicable to Tanzanian by the Indian act (application) ordinance, cap 2 under section 24. Customary law: In Tanzania (mainland) there are as many customary laws as there are tribal groupings. These customary laws rule are embodied in local customary law (declaration) order (No.4) of 1963. It is noted that, these rules apply only to patrilineal communities, which are 80% in Tanzania mainland (Ezer, 2006).

Justice *et al.*, (1995) explain that, under customary law, inheritance is in three degrees;

- (i) First degree heirs inherit first and get the biggest share of inheritance, normally the first son from the first house is the heir in the first degree.
- (ii) Second degree heirs include all other sons and they inherit a biggest share than daughters who are normally heirs in the third degree.
- (iii) Third degree heirs are normally the daughters of the deceased. Their share of inheritance is normally smaller than the heirs in the other two degrees.
  - (a) Islamic laws: A number of pieces of legislation provide for the application of Islamic laws in Tanzania (mainland) in matters relating to succession or inheritance where parties are member of the Islamic faith.
  - (b) Hindu law: Hindu law of succession or inheritance, which is the Hindu will act, 1870 was imported to Tanzania mainland though the Indian laws (application) ordinance (cap.2) and made to apply to the Hindu community.

### **1.3 Statement of the Problem**

In Tanzania various laws were introduced to overcome different problems. However, the application of inheritance laws are more problematic and are gender imbalanced, this is the major obstacles toward achieving equal rights against women hence the researcher was inspired to explore the ways in which these laws especially customary law which is in local customary (declaration) order No.4 Government Notice no436 of 1963, prevent the widows from enjoying the ownership of property rather than

using it. Amand *et al.*, (2003) reveals that, the local customary law (declaration) order of 1963 denies widows any inheritance right and only provides limited possibilities of inheritance right soon after death of husband, the widow should be returned to the father's house, live with children, or inherited through marriage by relative of her husband.

Property grabbing after the death of husband is approximated to be 17% of widows interviewed said were not allowed inheriting their husband's property (Flora *etal.*, 2010). Amber (2011) explains that, the women especial in Sub Sahara Africa suffer from inheritance, discriminations, and human rights violation as well as HIV epidemic and estimated that women aged 45-59 in sub Sahara Africa are widows.

Despite the fact that, some scholars such as Asiimwe & Crankshaw (2010), Nayaran *et al.*, (2000) and Kanabahita, (2006) studied the effects of customary law on women (widow) inheritance rights in matrimonial properties. Most of them concentrated on social and cultural effect of customary law and little details were available on economic effects, since customary law is the major causes that block social, cultural and economic advancement.

Furthermore, the literatures have documented no or few data which shows exactly how many widows are affected as far as the effects of customary law is concerned. Yet, there is little information on how to solve the problems of widows. The continued reports on widows' problems such as financial exploitation when extended family members tried to acquire property that rightly should have passed to her, social stigmatization and isolation attached to the status of widowhood and forced

evictions and property grabbing have still been realised (UN, 2007). These indicators made the researcher to assume that, little or no effort are put to address the problem surrounding women who are widows, since it's taken and treated as a secondary problem within the society, government, and legal entitlement.

In other instances laws, policies and other stakeholders remain silence while women are suffering. Hence, the researcher became curious and inspired to undertake this study on the effects of customary laws on widows' inheritance rights in matrimonial properties in Ruanda Ward in Mbeya City.

## **1.4 Objectives of the Study**

### **1.4.1 General Objective**

The general objective of this study was to investigate the effects of customary law on widows' inheritance rights in matrimonial properties in Ruanda Ward in Mbeya City.

### **1.4.2 Specific Objectives**

The study was guided by the following specific objectives;

- (i) To examine the effectiveness of customary law on widows inheritance rights in matrimonial properties in Ruanda Ward.
- (ii) To identify the social-economic effects of customary law on widows inheritance rights in matrimonial properties in Ruanda Ward.
- (iii) To assess the effort taken by the government to overcome the impact of customary law on widows inheritance rights in matrimonial properties in Ruanda Ward.

### **1.5 Research Questions**

- (i) Is the customary law effective in protecting widows' inheritance rights in matrimonial properties in Ruanda Ward?
- (ii) What are the social economic effects of customary law on widows' inheritance rights matrimonial properties in Ruanda Ward?
- (iii) What are the efforts taken by the government to overcome the impact of customary law on widows' inheritance rights in matrimonial properties in Ruanda Ward?

### **1.6 Significance of the Study**

This research will help to raise awareness to the community so that people take necessary actions to get rid of the problem to women. Also, it will create awareness to different bodies such as policy makers, parliament, legal institutions, and others. It will help them to review the policies and laws concerning women. Moreover, aimed to educate the community about the rights of vulnerable groups such as women/widows that, all bad practice on women should be removed, so government and all stakeholders should provide platform for discussion on problem facing women especially widows in the community, it will create and encourage them to fight against their rights.

### **1.7 Scope of the Study**

This study was aimed at investigating the effects of customary law on widows' inheritance rights in matrimonial properties specifically among widows at Ruanda ward in Mbeya city. Ruanda has been chosen for this study because of its outreach in



Mbeya city. It is located in the centre of the city where population is growing rapidly and that socio-economic activities of the area enabled the researcher to collect useful information. In Mbeya city, there are a number of wards with the like features as the number of widow women groups has been on increase, some of them are involved in small business in small market centres such as Kabwe and Soweto which provided useful evidence to conduct this study.

### **1.8 Limitations of the Study**

There were some limitations experienced in this study such as some respondents were expected to give biased information to conceal sensitive data: it was expected that, some respondents especially widows could not be allowed to give information in fear of criticism by relatives. However, the researcher assured the respondents that, this study is only for academic purpose and that the information will be treated with confidentiality and for no other purpose. On the other hand, this study had time constraints because a lot of time was needed to meet all the respondents. But, the researcher overcame this constraints by working overtime to be able to compile all the reports and get the required information.

### **1.9 Delimitation of the Study**

Due to time, resources and the fact that the area of widowhood is very broad, this study was delimited to widows bereaved by customary laws' effects to their rights to matrimonial properties in Ruanda location, Mbeya City Council of Tanzania. Such widows experienced a number of socio-economic problems that often hindered them from having successful rights to matrimonial properties. Therefore, the study focused on the effects of customary law on to widows' rights to inherit matrimonial

properties. Discussed were also government efforts that would be put in place to strengthen the role of customary laws in ensuring achievability of widows' rights to matrimonial properties.

The study respondents were widows who were knowledgeable and provided valid information on the study under investigation. Further, the study respondents included public officials, traditional leaders and the overall general public. These were considered to be very knowledgeable about the situation of widows' rights to matrimonial properties as enforced by customary laws. The study was confined to Ruanda ward of Mbeya City because of the accessibility to the widows who could give reliable information related to the study.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### **2.1 Introduction**

This chapter presents the review of related literature on the effects of customary law on widows' inheritance rights in matrimonial properties. The review examined theoretical and empirical sources relevant to this study discussed under the following subtopics: definition of terms, ways in which widows' inheritance rights are affected, effects of customary law on widows inheritance rights in matrimonial properties, national and international government efforts taken to improve the role of customary laws in protecting widows rights to matrimonial properties, the research gap from literature reviewed and the conceptual framework.

#### **2.2 Definition of Terms**

##### **2.2.1 Widows**

Widows are women who have been married and whose husbands have died (Lopata, 2002).

##### **2.2.2 Inheritance**

This is the practice of passing on property, titles, debts, rights and obligations upon the death of an individual. It has long played an important role in human societies (TAWIA, 2015).

##### **2.2.3 Inheritance Rights**

According to Max (2015), Inheritance is also called succession, which refers to devolution of property on an heir or heirs upon the death of the owner. The term

inheritance also designates the property itself. In modern society the process is regulated in minute detailed by law.

#### **2.2.4 Customary Laws**

Customary laws may be designed to mean that, laws which are either written declared or unwritten but recognized by the community as having the force of law, it is applicable to African member of community irrespective of their religious affiliation (Justice, *et al*, 1995).

#### **2.2.5 Matrimonial Properties**

Family law (2013) provides that, Matrimonial property or assets either spouse own or obtains before or during marriage, it does not matter whose name the property is in. Matrimonial property includes cars, cash, or other savings.

### **2.3 Theoretical Perspective**

The present study adopts patriarchy and socialist feminism as its theoretical stances. Although feminists mainly use the term ‘patriarchy’ to describe the power relations between men and women, it is “a system of social structures and practices in which men dominate, oppress and exploit women” (Walby, 1990). More generally in contemporary times, patriarchy is used “to refer to male domination, to the power relations by which men dominate women, and to characterise a system whereby women are kept subordinate in a number of ways” (Bhasin, 2006).

Radical feminists are committed to the belief that patriarchy preceded private property (Brownmiller, 1976). They argue that the fundamental contradiction is not

the one between economic classes but that between the sexes. Therefore, radical feminists reject, the impression that patriarchy is universal, natural, which has existed and will continue to exist.

The socialist theory of feminism promotes equal rights and opportunities to all individuals but emphasizes economic and social rights and freedom from exploitation (Bryson, 1999). They acknowledge the basic principles of Marxism but extend its frontiers to push the special interests of women which conventional Marxist theory did not explicitly cover further outwards. Socialist feminists view the struggle between women and men as changing historically with changes in modes of production (Beechey, 1977).

They challenge the dominant values, which pervade all areas of social relations as patriarchal structures define them. They argue that changing only family value system will not bring about the required changes in gender relations but reforming the entire laws of matrimonial property inheritance and property distribution so as to establish equal right between men and women in all respects of life. They insist that only this will bring widows rights to matrimonial property.

Thus, the structured dependency of women on men is conditioned by a whole range of customary law and legal institutional practices which are embedded in the family and the kinship relations. To this extent, patriarchy is the system of male domination and female subordination in economy, society and culture that has characterized much of human history to the present day (Lim, 1997).

## **2.4 Empirical Literature Review**

All over the world women have similar problems and no society do women enjoy the same opportunities as men, it is not the case for even the Nordic countries which top the list of countries that try to eradicate gender disparities. According to the Human development report of (1995), problem relating to the access of women to education, health service, economic opportunities, and political participation were found to be universal. Fifteen years down the road, the Human development report 2010, identifies deprivations in the area of health, education, and labour participation resulting from gender disparities to exist. Even though, there are variations across the region but the highest rate is in Sub- Sahara Africa (TAWLA, 2013).

### **2.4.1 Widows in Tanzania**

It had been known that a good number of widows in Tanzania are suffering from threats and crises. The common threats known among stakeholders so far include but not limited to living with ill-health including HIV/AIDS, Poverty and Conflicts (TAWIA, 2006). The rate of gender inequality based on economic, social, and political status of widows is substantial in target communities. Some vulnerable widows and their families are ignorant of and have still scarcely benefited at all from improved public life opportunities in such areas as legal support and cost exemptions in education and health services.

This includes widows and their girls living in extreme poverty and facing multiple forms of discrimination (disabled women; women who are medically incapable of work; and women with HIV/AIDS). Inequality in public life often arises from unequal power in people's personal relationships. Enforcement of discriminatory

laws, pro gender imbalance traditions, erratic gender policies and criminalised violence against women, attribute to widows' stresses, trauma, and a variety of conflicts. Due to that, there is a great need to develop concern and support widows so that they can enjoy life in a community oriented to justice and respect for all. One of sensitive areas in which widows and their children suffer much is inheritance to matrimonial properties (Ezer, 2006).

#### **2.4.2 Effectiveness of Laws Protecting Widows Rights to Matrimonial**

##### **Properties**

Many sufferings with widows in Tanzania and some many other areas in the world are much linked to distribution of one's husband property at death. Distribution of inherited properties is much easier and fair if the deceased husband (testator) has written and executed a last will and testament, recognised as a legal declaration by which a person (testator) names a will trustee (the holder of property on behalf of beneficiaries) and provides for the distribution of his property to be in effect at the time of death. Serious challenges have been reported to occur for the devolution or transference of property if a deceased husband did not write and execute a last will and testament (TAWIA, 2015). This is what happens in most cases, causing inconveniences to widows and their children, including denial of their rights to matrimonial properties. Understanding such inconveniences, distribution of matrimonial properties has been set to follow rules and laws to fill the gap left by the absence of last will and testament (Ayodele, 2016).

The rules of inheritance differ between societies and have changed over time. Some changes in rules and laws used in Tanzania have been essentially established and

used for the benefit of widows and their children. In Tanzania's context, the following rules and laws are in one way or another applied thereof as identified by TAWIA (2015) include:

- (a) Adopted Indians law of inheritance of 1985. It is much applied when the deceased was neither a follower of Moslem Kadhi's or Customary rules and laws.
- (b) Moslem laws of inheritance. They are applied to Moslems.
- (c) Customary Laws. They are applied if the deceased lived by obeying traditions and customs of his tribe.

Reports have established that, despite of having such recognised laws, the effectiveness of such laws and especially customary laws as referred in this study have been under doubt for several reasons. Of them is the continued existence of either delayed or unrecognized rights to matrimonial properties among widows among the society. Carter & Barrett (2006) depicted that, in few instances when widows are favoured by inheritance distributive decisions, some members of the husbands' family often become aggrieved. Consequently, they raise seemingly justifiable objections.

Their reactions to perceived inheritance distributive injustice often manifest in inheritance hijacking practices against widows, who they insist, have got no property inheritance rights. As a consequence of the attendant effects of such alienation from property, the dwindling fortunes of these victims have been linked to economic vulnerability, poverty traps, chronic poverty and the Intergenerational Transmission of Poverty (IGT Poverty) (Ayodele, 2016).



It has been further discovered that, majority widows have lost rights of inheritance but never lodged inheritance cases to the court of law. This is because they are ignorant of what to do in order to claim for their rights. Minority of them are inspired to go for further action to claim for their rights, after receiving some advice from widow supporting legal institutions such as Tanzania Widows Association (TAWIA), Tanzania Gender Networking Programme (TGNP), police help desk and social welfare departments (TAWIA, 2015).

This reflects a fact that several thousand if not millions of widows and their children in Tanzania are facing challenges linked to inheritance procedures. Minority widows have been able to lodge their cases to various legal authorities such as court of laws, Moslem/court of Kadhi, and customary units (TAWIA, 2016). A few cases went well, with fair implementation that protected the rights of beneficiaries, including good distribution of matrimonial properties. Factors that made such cases end successfully involved sufficient cooperation from the will trustees and other relatives of the testator. Some cases are ongoing. They are, however, generally run under less satisfactory environment which proves that the laws including customary ones do not fully guarantee widows' inheritance rights to matrimonial properties which formed the base for this study (Carter & Barrett, 2006).

#### **2.4.3 African Customary Law, Customs and Women's Rights Overview**

The source of laws in most African countries are customary law, the common laws and legislation both colonial and post independence, in typical African countries the greater majority of people conduct their personal activities in accordance to the customary law. Customary law has greater impact to the area of personal law in

regard to matters such as married, inheritance, and traditional authority, and because it developed to an era dominated by patriarchy some of its norms conflict with human rights, norms guaranteeing equality between men and women (Asiimwe, 2007).

African customary law in the context of human rights emphasizes the right in context of the community and kinship. Moreover, African customary law embodies and underpins customs and tradition that discriminates against women, the discrimination against women is rooted in inequality, male domination, poverty, aggression entrenched customs and myth (Ndulo, 2011).

On the other hand, Christine and Nazizwe (2006) describe the most devastating problems of widows are loss of their property and inheritance at the hands of deceased husband's or father's family. Typically, almost immediately following her husband's death, a woman's in-laws evict her and her children from the marital home, with no financial means to better her position. Hence, the effects of property and inheritance loss are catastrophic.

Furthermore, the customary tenure system provides that, land should be held by community, communal ownership of land offers the greatest protection to women who are users and not the owners of the land, this system directly denies the opportunity for women to hold land (National land policy, 2004).

Ezer (2002) provides that, law subordinates and impoverishes women, denies equal share of inheritance, women lack access to economic resources and are kept in a state of perpetual dependence, indeed Tanzania's Law Reform Commission identified

succession law are among of the major factor that have greatly worked toward the derogation of women, the application of the three parallel system of intestate succession operate in Tanzania choice of law rules, channel the majority of Tanzania citizen into discriminatory regime the three system are customary law referring traditional tribes law, Islamic law and Indian succession Act, while Indian succession Act is gender neutral both customary and Islamic law are discriminatory.

#### **2.4.4 Customary Laws Deny Widow's Inheritance Rights in Tanzania**

Widows disinheritance is another serious violation of women rights, under customary law widows lose their rights to inherit their home, land and assets of their husband death, it is the sons deceased husband who take over the ownership of large share leaving very little to the daughters, therefore the sons tends to neglect taking care of their widowed mother and the law is silent (Teresa, 2011).

Tanzania high court therefore admits that, customary inheritance law was flawed and actual discriminates against widows and female children. However, it could not be declared unconstitutional followed the grant a request by the petitioners, Elizabeth Stephen and Salome Charles, both residents of Shinyanga region. The two are widows who claimed to have been denied their rights to inherit (Judica, 2006).

Ezer (2002) on the other hand notes that, Tanzanian women make up 80% of the agriculture labour force and 49% of the total work force hence contribution to the acquisition of property must be recognized otherwise will be a serious violation of women equality. The customary law of intestate succession either completely deny women inheritance or severely limit their share, they thus maintain women's

dependence on men, customary laws treat them as minor dependant on the care of others and property to be inherited by man. Customary laws explicitly deny widows inheritance rights as codified, the widow has no share of the inheritance if the deceased left relative of his clan her share to be cared by the children just she cared for them, customary law treat widow as dependants who required care rather than matured adult who can inherit and manage property.

Hence, major cause of impoverishment is the lack of equal access to the rights over control of economic resource with men, especially when their husbands died. Under customary law preference to inherit land is always for male heirs and widow can inherit property through her children especially the male children (Matilda, 2009).

#### **2.4.5 Women Property Right in Tanzania**

The customary law (declaration) order of 1963, discriminates women on property ownership especially inheritance of land. Widows have no right to inheritance, no right of residence in matrimonial home after death of husband, as daughters, women inherit if there is no male heirs. Therefore, the practice of widow inheritance or assumption that a widow can be taken care by the heirs is dismantled by the prevalence of HIV / AIDS, widow need an independent right to inherit the share of their deceased husband property so that they can be able to freely lead peacefully lives and look after their children (TAWLA, 2013).

Under the constitution of Tanzania (1977) emphasizes that, every person in Tanzania is entitled to own property. A person's right to own property is governed by the provision of the land act (supra) and the village land act. Both of these acts reversed

discrimination customary practices that negatively affected the rights of women to land, and these Acts recognize the equal entitlement of men and women to own property (Clarence and Sarah, 2009).

Therefore, Tanzania's law of marriage Act grants women certain ownership rights including access to property other than land, but customary laws undermines these rights prevails within the community. Moreover, the 2004 amendments to the land Act gave Tanzanian women the right to access bank loans. In addition, women developments were established 1993 to facilitate access to loans and encourage commercial participation in economic sector. However, customary practice continues to restrict women's access to loan and credit (Gender equality and social institution, 2016).

#### **2.4.6 Challenges facing Widows in relation to Inheritance of Matrimonial**

##### **Properties**

There is evidence that even in countries where there is no conflict and despite all the international provisions protecting the rights of women, the rights of widows, as women and members of the human race are disregarded. There may not be able to inherit land, may be forced to marry, may be subjected to inhumane mourning rights or abuse all in the name of custom, religious or traditional practice (Ayodele, 2016).

Current rules and laws instruct clansmen to meet and appoint the trustee who is the holder of property on behalf of beneficiaries and execute property distribution order. Minutes emanating from such meeting are used as basis for further decisions and actions. It is very unfortunate that members of such meetings are ignorant of laws.

In most cases, widows are not given a right to be trustee of the property that would in turn give them an opportunity to take appropriate positions in concerned properties distribution and ownership (TAWIA, 2015).

Lawsuits unnecessarily take too long time from the starting of litigation to a point of judgments. Widows easily lose their rights due to ignorance of laws and other procedures needed to identify and defend their rights. Widows are financially unable to hire attorneys or litigators to stand on their behalf when claiming for their rights. This becomes very critical when defendants are able to hire lawyers. In some cases, litigation and judgments are done but leaving a lot to desire, as widows are denied of their rights in questionable contexts. Kadhi court of Moslems are run by the arbitrators or adjudicators who ignores some important rules in law of inheritance due to ignorance of the law or sticking to religious guides which suppresses widows rights (TAWIA, 2015).

As far as women are not homogeneous, the impact of failure to provide for certain rights for example guarantee of quality of opportunities between men and women or other substantives right may be different depending on number of factors including; levels of economic development of certain country, political climate prevailing in certain locality, level of civilization including respect of human right, literacy, or education (*ibid*).

#### **2.4.7 The Impact of Customary Law on Women**

Women suffer a lot of injustice from the male relative of deceased person these include; sexual harassment, property grabbing, prevention from remarrying and

founding new families as they so wish. In some cases, they lose conducive environments to take care of their children, lack of food and economic power. Others are suppressed to leave the matrimonial homes when they choose to marry a man of their choice but different from the relative of deceased husband (Florence and Owen, 2011).

As such, widow's right to privacy and dignity are also infringed when circumstance necessitate the remarrying affair to be subjected to discussion among clan members of the deceased person. The rule allowing a widow to stay in a matrimonial home under care of the heirs who has turned them destitute in practice (TAWLA, 2013). Due to customary law, women may not own property and hence, the ownership of her home is passed on to a male member of his family (Florence and Owen, 2011).

#### **2.4.8 Protection of Women against Their Rights**

Ezer (2002) explains that, women's right to property is protected by the Tanzanian and international laws. The Tanzania context in particular, is governed by the constitution which reorganizes that, every person is entitled to own property, and CEDAW requires, state provide the same right to both spouses in the respect of the ownership, acquisition, management, administration, enjoyment and deposition of property.

Under the Tanzania law of marriage Act (LMA), men and women are granted the same right to acquire, hold, and deposit property. Moreover, the Land and Village Act passed in 1999 have identical provision protecting the life of every women to acquire, hold, use, and deals with land to the same extent and subjected to the same

restriction as the same rights of any man. All these laws recognize women to acquire property, but the Tanzanian Inheritance Law which favors male administration and enforce women dependence on male relatives (Mooney *et al.*, 2007).

International human rights organization such as human rights watch and the Geneva based centre on housing rights and eviction (COHRE), United Nations agencies, including the U.N committee on economic, social and culture rights (CESCR), Human settlement programme (UN HABITAT) and the UN food and Agriculture Organization (FAO), and bilateral development agencies, including the U.S agency for international development (USAID) have convened and organized activities to highlight women property and inheritance rights (WPIR) as development issues (Christine and Nazizwe, 2006).

## **2.5 Conceptual Framework**

The conceptual framework as defined by Miles and Huberman (1994) is the system of concepts, assumptions, expectations, beliefs and theories that support and inform the research. It further describes either graphically or in narrative form the main themes to be studied, the key factors, concepts or variables and the presumed relationships among them. Figure 1 is a summary of the effects of customary law on widow's inheritance rights in matrimonial properties. Also captured are the support systems that if put in place would assist widows to Inherit matrimonial properties effectively as assisted by effective customary laws.

The independent variables were the effectiveness of customary laws in protecting widows' rights to in matrimonial properties, the socio-economic effects of

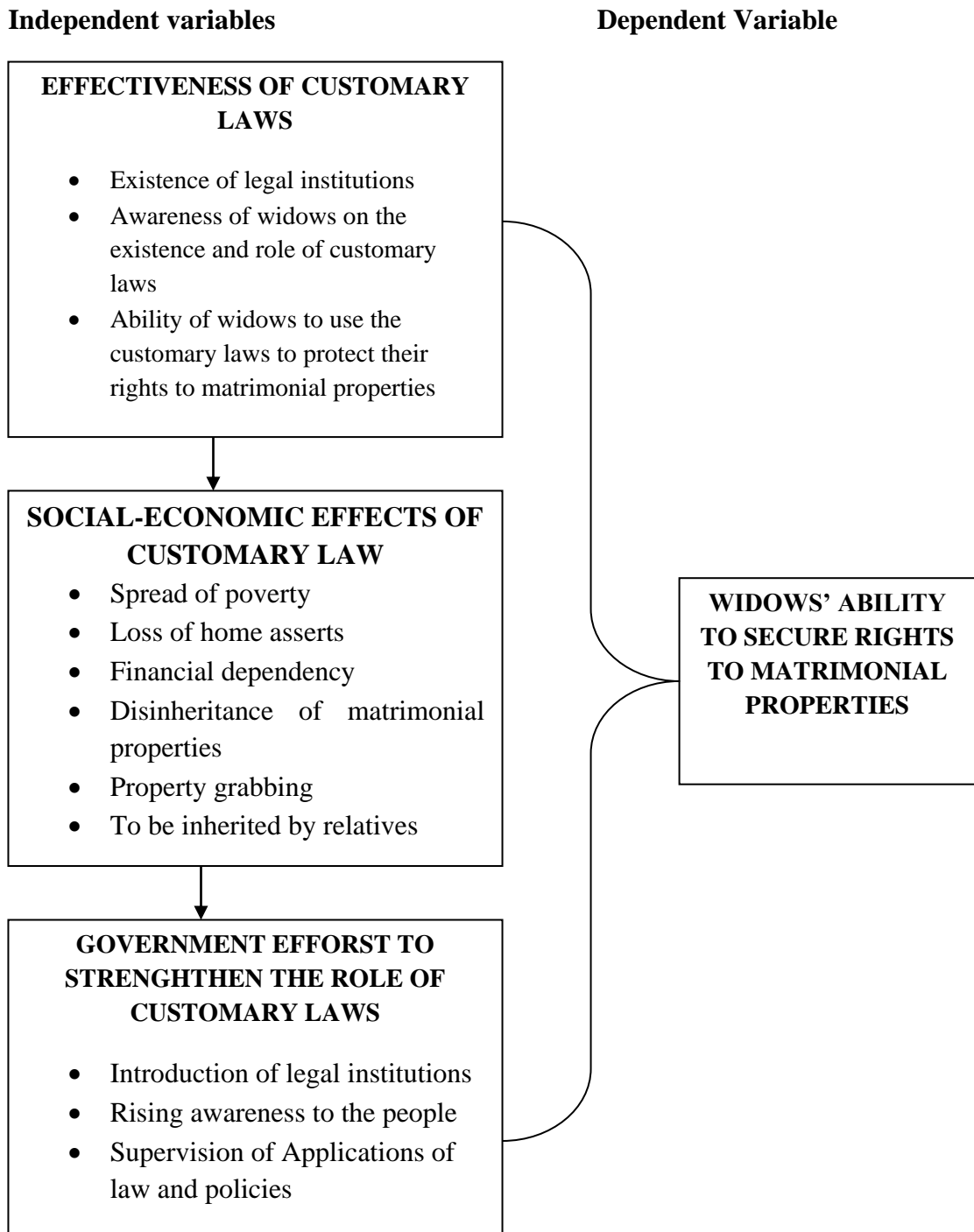


ineffectiveness customary laws in protecting widows' rights to matrimonial properties as well as the strengths of the government efforts taken to assist the role of customary laws in protecting widows' rights to matrimonial properties. For many widows, the moment they lost a husband for whatever reason, a number of social and economic problems such as stigma/discrimination, conflicts with in-laws, cruel accusations, denial of their right to own property by family members, their educational and social economic levels, right to work violation, and their religious faiths to some extent multiplied the pain of loss by leaving widows in untold suffering. Again, the social problems such as grief, denial, shock, insecurity, anger, trauma loneliness, self-esteem, resilience, depression, anxiety and the different range of emotions that each widow had to go through sometimes forced them to grieve in silence with an added burden of providing for their families.

It is hoped that with the support of effective customary laws systems; legal institutions if available and well known to the widows, as well as the ability of widows to use the customary laws to demand rights to their matrimonial properties and with the help of government policies providing widows with legal protection and widow organizations, would assist them to cope with bereavement and assume a normal life.

Widows would be able to inherit matrimonial properties if they used effective customary laws to demand their rights to delayed matrimonial properties. Government, legal institutions as well as family/friends, support would empower widows as a time of self-discovery, independence, resourcefulness, resilience and using determination and courage to face their rights to matrimonial properties

contributing to elimination of social-economic effects emanating from uneffective customary laws geared at protecting their rights to matrimonial properties.



**Figure 2.1: A Conceptual Framework on the Effects of Customary Law on Widow's Inheritance Rights in Matrimonial Properties**

## **2.6 Research Gapes**

There is no suggestion on how to curb the problems of effects to the customary law on widow's inheritance rights in matrimonial properties. The studies fail to give the details about the outcomes and impacts as the results of failure of customary law in protecting widow's rights in matrimonial properties.

## **2.7 Chapter Summary**

All these studies explained that, customary laws discriminate women. These literatures are concentrated to show the social, cultural and economic effect while nothing or little has explained about efforts, suggestions and strategies on how to curb the effects of customary laws on widows inheritance rights in matrimonial property.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY**

#### **3.1 Introduction**

This chapter presents the research design, population of the study, nature and type of data required. It also describes the sampling procedures, data collection, processing and analysis ethical considerations observed in this study.

#### **3.2 Research Design**

Research design is the arrangement of conditions for the collection and analysis of data in a manner that aims to combine relevance to the research purposes with economy in procedure (Kothari, 2004). The survey research design was adopted for this study. This was done due to the large number of subject under investigation. To study a very large population as is the case in the communities chosen to be studied in Ruanda Ward could be very cumbersome for any researcher. Survey research studies both large and small population by selecting and studying samples chosen from the populations to discover the relative incidence, distribution and interrelations of sociological and psychological variables. Furthermore, survey research focus on people, the vital facts of people and their beliefs, opinions, attitudes, motivations and behaviours (Okorafor, 2011).

#### **3.3 Research Methodology**

The study used both qualitative and quantitative research methods because the combined data were useful in depicting the effectiveness of customary laws in protecting matrimonial properties among widows. Saunders *et al.*, (2009) outlined

how qualitative and quantitative methods can complement each other in design, data collection and analysis phases of a project. Although, these methods are not always interchangeable, each method can be strengthened by using the intrinsic qualities of the other. Thus, for most researchers, the issue is how to tap the potential of each method rather than determining which is better or more important.

### **3.3.1 Qualitative Research Method**

According to Willian (2006), a qualitative approach is a general way of thinking about conducting qualitative research. In this study, the qualitative component was designed to be exploratory. It was used to collect views from various categories of respondents on the effect of customary laws on widows' inheritance rights and matrimonial properties. These views were crucial in providing information that could not be captured by quantitative instruments and in explaining the numbers in quantitative data, which was collected from various respondents.

### **3.2.2 Quantitative Research Method**

Quantitative technique is the method that emphasizes objective measurement and the statistical mathematical or numerical analysis of data collection focusing on gathering numerical data and generalizing it across groups of people or to explain a particular phenomenon (Babbie, 2010). The study collected quantitative data through questionnaires that captured various information related to the effects of customary laws in protecting widows rights to matrimonial properties. Questionnaires were administered to all types of respondents involved in the study such as widows, general public and government officers. The data were analysed by using simple statistics such as frequency and percentage tables.

### **3.3 Population of the Study**

Is the group of people that the researcher wants to draw a conclusion about once the research study is finished (Katrina, 2012). For this study population included general public, officials and widows. It is from this study population where the study sample was drawn.

#### **3.3.1 Area of the Study**

The study was conducted at Ruanda ward in Mbeya Region. According to 2012 census, the total population of Mbeya region was 2,707,410 of which 1,409,672 were women (52.1%) and 1,297,738 were men (47.9%), while population rate of 2.7% Mbeya city. The city has two (2) division and 36 ward where by male was 182,620 and female were 202,659 and total of house hold were 9,733 (4.2%), distribution by age and sex, the 1978 population census results showed that female were more than male in Mbeya Region for every 100 female there were 91 males. The ethnic groups in Mbeya region are Nyakyusa in Kyela and Rungwe district, Safwa and Malila in Mbeya district Nyiha and Nyamwanga in Mbozi district, Ndali in Ileje district, Bingu and Kimbu in Chunya and Sangu in Mbarali district.

The study therefore, was conducted at Ruanda ward in Mbeya Region. This ward was selected because it occupies largest part of Mbeya City's business centre where widows were accessible as they are part of the larger population involved in small businesses occupying the area. Ruanda ward has total population of 21,927, where male are 10,198 and female are 11, 729, the ward also has the total number of eleven (11) streets namely Mtoni, Ilolo, Makunguru, Kati, Mkombozi, Soweto, Mwenge, Kabwe, Soko la wakulima, Bank and Isoko (Mbeya Regional Secretarial, 2013).

### **3.4 Sampling Procedures and Techniques**

#### **3.4.1 Sample Size**

According to Geert (2004), sample refers to the subject of units that have been selected. Size of sample refers to the number of items to be selected from the universe to constitute a sample. For this study the total number of respondents was 120 among them; government officials were 10 of whom include 6 Social welfare officers, 4 Lawyers, and 10 Traditional leaders; general public were 80 sampled from the community and widows were 20 from the community.

#### **3.4.2 Sampling Design**

Sampling design is the method used to draw sample from a population usually in such a manner that the sample would facilitate determination of some hypothesis concerning the population (Saunders, 2009). In this study the researcher obtained the sample by using three methods:

##### **3.4.2.1 Snowball Sampling**

Snowball or referral sampling is where the current respondent refers the researcher to other respondents who meets the criteria of the researcher (Kothari, 2006). Snowball sampling enabled the researcher to meet representative widows' sample with minimum difficulty since they were able to identify themselves and thus doubt as to why the study was conducted was well managed. 20 Widows were interviewed after being identified by the local government authorities and were asked to identify other potential widows until the required sample was obtained.

#### **3.4.2.2 Purposeful Sampling**

In this type of sampling, items for sample are selected deliberately by the researcher, his/her choice concerning the items remains supreme (Kothari, 2004). Based on this study, the purposive sampling procedure was used to identify 10 local government officers as well as 10 tradition leaders in order to capture their views, opinions or suggestions and express their feelings and attitudes towards the inheritance rights of widows in Mbeya city at Ruanda Ward.

#### **3.4.2.3 Stratified Random Sampling**

Stratified random sampling technique gives a good representation of the population (Santrock, 2005). It involved dividing the population into stratas based on the, four locations in Ruanda ward namely Mwanjelwa, Soweto, ilemii and Kabwe locations, from which equal number of 20 respondents were chosen making a total of 80 respondents. These locations were chosen on the basis that they are at the center of Mbeya business centre where all sorts of people including widows were accessible by visiting their small business offices. On the other hand, great population network in the areas enabled the researcher to reach at reasonable targeted sample with minimal assistance.

### **3.5 Data Collection Methods**

This study used both primary and secondary data in gathering information. The primary data are those data, which are collected afresh and for the first time and thus happen to be original in character (Kothari, 2004). In this study, primary data were collected through questionnaire, interview as well as direct observation. On the other hand, Kothari (2004) defines secondary data to be the data, which have already been



collected or analyzed by someone else, which have already been passed through the statistical process. Secondary data may either be published into various publications such as books, magazine, or unpublished may be found in diaries or letters. In this research documental review were used to collect secondary data.

### **3.5.1 Primary Data Methods**

#### **3.5.1.2 Questionnaires**

According to Kothari (2004), questionnaires consist of questions printed or typed in a definite order on a form or set of forms. Questionnaires were chosen because; it enabled the collection of data over relatively larger sample within short time (Gilham, 2008). This method was used to collect from all respondents in this study. The questionnaire for consisted of general information on how they understood the effects of customary laws in protecting widows' rights to matrimonial properties.

Parts of the questionnaire included respondents' personal information, respondents understanding of customary law and its effectiveness in dealing with widows' rights to matrimonial properties, socio-economic effects of the weaknesses of customary laws as well as assessment of government efforts in strengthening the role of customary laws in protecting widows' rights to matrimonial properties.

Hence widows, general public, government officers as well as traditional leaders were all involved in filling the questionnaires. The questionnaire were administered in person for every sampled participant and collected instantly. This ensured timely data collection and clarification of some misunderstood questions.

### **3.6 Secondary Data**

Secondary data were obtained through various written resources in library such as books, journal, magazine and internet. The following documents were thoroughly scrutinized; academic records showing customary laws, research reports related to widows' rights to matrimonial properties as well as books related to the study.

### **3.7 Data Processing and Analysis**

Kothari (2004) defines data analysis as the computation of certain measures along with searching for patterns of relationship that exist among data groups. The data collected from questionnaire were analyzed through Statistical Package for Social Sciences (SPSS Version 16), this is a package of programs for manipulating, analysing and presenting data. This package is widely used in the social and behavioural science (Sabrina *et al.*, 2004). The SPSS was used because it could handle large data set (Gasper, 2012). Data from interview were analyzed in different ways and those are as follows, first all major issues were classified following placing of codes under the major topics identified. After coding the data were transferred into data sheet and then were interred into SPSS (*ibid*).

### **3.8 Instrument Reliability and Validity**

According to Khotari (2004), validity refers to the extent to which a test measures what we actually wish to measure. Reliability refers to the extent to which the data collection techniques or analysis procedures will yield consistent findings, while validity is concerned with whether the findings are really about what they appear to be about (Saunders et al, 2009). To ensure validity of the data, the researcher used purposive, stratified and snowball sampling to ensure that research instruments were

only administered to individuals who are aware of widows' problems in relation to matrimonial properties. The questionnaire was tested and comments for the questions which were not clear were reviewed and corrected by the supervisor and peers. On top of that, the respondents' responses were checked for consistency on some of the questions they responded. Pilot study

### **3.9 Ethical Consideration**

According to Lincoln (2009), any research is never far from ethical issues and dilemmas. The researcher ensured that, the purpose of this study was fully explained in advance to the participants. Informed and voluntary consent was obtained from all the respondents before the distribution of the questionnaire by seeking from each participant. The researcher built rapport and credibility with respondents by respecting their rights to voluntarily participate or withdraw. Widows were treated with respect, dignity and were encouraged to share only what they felt comfortable with. The researcher was sensitive to the participants by first identifying their biases, values, personal interests about the topic and process.

Respondents' privacy was protected and confidentiality maintained. Anonymity of the identity of the participants during the interviews was safeguarded by use of letters and numbers (Lincoln, 2009). A research Permit was sought from the Open University of Tanzania and relevant government offices so as to conduct the study. Information obtained from other sources has been acknowledged.

### **3.10 Chapter Summary**

This chapter has presented methodological strategies, which were used to conduct this study. The methods such as research design, sampling techniques, data collection

and analysis as well as ethical considerations have been presented in relation how they assisted to reach at conclusion on the effects of customary laws in protecting widows' rights to matrimonial properties.

## **CHAPTER FOUR**

### **RESEARCH FINDINGS AND DISCUSSION**

#### **4.1 Introduction**

The research findings have been set below and the results arrived at after extensive analysis of the data collected during research. The study was guided by three objectives namely, to examine the effectiveness of customary law on widows' inheritance rights in matrimonial properties, to identify the social-economic effects of customary law on widows' inheritance rights in matrimonial properties, and to assess the effort taken by the government to overcome the impact of customary law on widows' inheritance rights in matrimonial properties. Most of findings have been presented through illustrative diagrams under specific headings beginning with demographic information about the respondents.

#### **4.2 Demographic Characteristics of Respondents**

The distribution of respondents by gender, age, marital status and their general understanding of customary laws in widows' inheritance right in matrimonial properties. These characteristics are further discussed in the following sub-sections.

##### **4.2.1 Sex Distribution of Respondents**

Gender is a matter of concern in this study because men and women have different ideologies on matters related to understanding of customary laws in widows' inheritance right in matrimonial properties as shown in Table 4.1. Out of the 120 respondents who participated in the study 39.1% are males and 60.8% are females.

The findings imply that women are more concerned on the research topic because it touches their well being.

**Table 4.1: Distribution of Respondents by Gender**

Type of Respondents	Male		Female	
	Frequency	Percentages	Frequency	Percentages
Widows	0	0	20	16.6
Traditional leaders	5	4.16	5	4.1
Officials	4	3.3	6	5
General public	35	31.6	45	37.5
Total	47	39.1	73	60.8

Source: Field Data (2016)

#### 4.2.2 Age Group of Respondents

The researcher sought to establish the age distribution of respondents so that it can be ascertained how age disparity affects the understanding of customary laws in widows' inheritance right in matrimonial properties among people of different ages. The findings of this study are presented in Table 4.2.

**Table 4.2: Age Group of Respondents**

Gender	Age Category							
	18-25	%	26-35	%	36-45	%	46+	%
Male	5	4.1	10	8.4	25	20.8	11	9.1
Female	10	8.4	17	14.1	13	10.8	29	24.1
<b>Total</b>	<b>15</b>	<b>12.5</b>	<b>27</b>	<b>22.5</b>	<b>38</b>	<b>31.6</b>	<b>40</b>	<b>33.2</b>

Source: Field Data (2016)

Results in Table 4.2 show that, 12.5% of respondents are in the age of 18-25, 22.5% are in the age of 26-35, 31.7% are in the age of 36-45 and 33.2% are in the age of 46+

years. The findings concur with the report by Ribiru (2013) who discovered that, majority of productive women and men were aged 20 to 49 years as they are capable of higher output if engaged in any productivity example, farming, and business. This means that, majority of participants are in the age of above 46 years probably because this is the age of adults who have more experience of marriage problems where numbers of widows is greater either due to death of their spouses or divorce.

#### 4.2.3 Occupation of Respondents

The study sought to establish the occupation of respondents in order to reveal the understanding of people on customary laws in widows' inheritance right in matrimonial properties according to their employment status. The findings of this study are presented in Table 4.3.

**Table 4.3: Occupation Distribution of Respondents**

Type of respondents	Male		Female	
	Frequency	Percentages	Frequency	Percentages
Traditional leaders	5	4.1	5	4.1
Social workers	2	1.6	3	2.5
Lawyers	2	1.6	3	2.5
Private employees	38	31.6	62	51.6
Total	47	39.4	73	60.8

**Source: Field Data (2016)**

The findings in Table 4.3 reveal that, 4.1% of the respondents are male traditional leaders, 4.1% female traditional leaders, 1.6% male social workers, 2.5% female social workers, 1.6% male lawyers, 2.5% female lawyers, 31.6% male private employees, 51.6% female private employees. The data means that, there were more

female compared to male respondents based on their occupation. Occupation being the key to knowing how the community is aware of the effects of customary law on widow's inheritance rights in matrimonial properties based on their occupation; this is an important aspect for this study to understand the findings of these variables as summarized in the Table 4.3.

#### 4.2.4 Marital Status of the Respondents

Marital status of respondents shows how it affects the understating and application of customary laws in widows' inheritance right in matrimonial properties as shown in Table 4.4.

**Table 4.4: Marital Status of the Respondents**

<b>Marital status</b>	<b>Frequency</b>	<b>Percentages</b>
Single	24	20
Married	66	55
Widows	20	16.6
Divorced	10	8.3
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Findings in Table 4.4 show the marital status of the respondents whereby 20% are single men and women, 55% married women and men, 16.6% widows and 8.3% divorced people. This suggests that, married people have more understanding of customary laws compared to single because they are not in family relationships.

#### 4.2.5 Education Level of the Respondents

The aspect was thought to be important to discuss this topic based on participants' educational levels as seen in Table 4.5.



**Table 4.5: Education Level of the Respondents**

<b>Education level</b>	<b>Frequency</b>	<b>Percentages</b>
Primary education	78	65
Secondary education	20	16.7
Higher learning	10	8.4
Others	12	10
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Results in Table 4.5 show that, 65% of respondents had primary level of education, 16.7% had secondary level of education, 8.4% had higher learning education, which in this case was refereed as Degree, Master's and Doctorate; 10% had other educational qualifications such as Certificates and Diplomas. This reveals that, the majority of the participants were primary school leavers participated in the study, which is a clear evidence of social stratification in contemporary Tanzania.

#### **4.2.6 Religious Affiliation of Respondents**

The study aimed at finding the respondents' religious affiliation because some customary laws have direct relations with religions of which others are purely based on religious beliefs. The results are as shown in Table 4.6.

**Table 4.6: Religious Affiliation of the Respondents**

<b>Religious</b>	<b>Frequency</b>	<b>Percentages</b>
Christian	90	75
Islamic	30	25
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Observations in Table 4.6 show that, 75% of respondents are Christians while 25% are Muslims. This entails that, the study area is mainly occupied by two religions. This aspect is important since inheritance also affects people who hold different religion, hence religion affiliation was captured.

#### **4.2.7 Availability of Widows' Harassment after the Death of Their Husbands**

The study sought to understand the respondents' awareness of widows' harassments after the death of their spouses. This was believed to be important because such understanding was used to measure other aspects related to customary laws on widows' inheritance right in matrimonial properties as shown in Table 4.7.

**Table 4.7: Do Widows Face any Harassment after the Death of their Husbands?**

<b>Variables</b>	<b>Widows</b>		<b>Officers</b>		<b>General public</b>		<b>Traditional leaders</b>	
	<b>F</b>	<b>%</b>	<b>F</b>	<b>%</b>	<b>F</b>	<b>%</b>		
Yes	20	100	10	100	72	90	10	100
No	0	0	0	0	8	10	0	0
<b>Total</b>	<b>20</b>	<b>100</b>	<b>10</b>	<b>100</b>	<b>80</b>	<b>100</b>	<b>10</b>	<b>100</b>

Source: Field Data (2016)

Table 4.7 reveals that, 100% of respondents who are widows and officers knew that widows face harassments after the death of their husbands. It further reports that, 90% of respondents are general public knew that widows' harassment after the death of their husbands was prevalent among the people. However, only 10% of the respondents are the general public reported that, it was not prevalent which means they were not aware of the presence of widows' harassment after the death of their husbands. These findings are supported by Okorafor (2011) who explains that, in Nigeria, upon the death of their spouses, widows are more likely disposed to suffer some level of disempowerment, deprivation and discomfiture.

#### 4.2.8 Types of Harassment to Widows

The question on the types of harassments faced by widows which led to establishment of customary laws was also asked to the participants with the aim of knowing the types of harassments faced by widows as presented in Table 4.8.

**Table 4.8: Types of Harassment to Widows**

<b>Types</b>	<b>Frequency</b>	<b>Percentages</b>
Denied right to inherit family properties	80	66.7
Denied legal capacity to own and administer property	90	75
Denied rights and responsibilities with regard to their children	30	25
Denied ability to enter a marriage of their own choosing	67	55.9

Source: Field Data (2016)

Results in Table 4.8 show the types of harassments faced by widows as follows; 66.7% reported that denied right to inherit family properties, 75% denied legal capacity to own and administer property, 25% denied rights and responsibilities with regard to their children, 55.9% denied ability to enter a marriage of their own choosing. This data reveals that, the most type of harassment faced by widows in the study area is the denial of legal capacity to own and administer property and followed by denied right to inherit family properties.

Similarly, (WLSA Zimbabwe, 1993) singles out that, customary law, ignorance of the law, property grabbing, and witchcraft as well widowhood rituals such as sexual cleansing as some of the common factors that affect the inheritance rights of women. For example, it was found that the major problems widows encountered relating to

property has to do with society's perception of a woman and her general status in society. It is assumed that women have no property rights at all. However, a WLSA study establishes that, region-wide, women do have property rights.

### **4.3 The Effectiveness of Customary Law on Widows Inheritance Rights in Matrimonial Properties**

The researcher wanted to find out the effectiveness of the customary on widows' inheritance rights in matrimonial properties. This was supposed to enable the researcher to determine if the laws were effective enough in protecting such rights hence various questions were asked and the responses were as follows.

#### **4.3.1 Which Laws Deal with the Welfare of Widow's Inheritance?**

On the first part, the study wanted to find out the participants knowledge on the types of inheritance or succession laws which deal with the rights of widows' inheritance rights in matrimonial properties as presented in Table 4.9.

**Table 4.9: Laws of Inheritance Protect Deals with the Women Rights in Tanzania**

<b>Laws</b>	<b>Frequency</b>	<b>Percentages</b>
Islamic law	20	16.7
Indian success act	2	1.7
Local customary law	70	58.4
I don't know	28	23.4
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Table 4.9 shows that, 16.7% identified Islamic customary laws, 1.7% identified Indian success act, 58.4% knew the local customary laws used in Tanzania where as

23.4% are unable to identify anything. These findings entails that, majority of participants knew the local customary laws, which are used to deal with the rights of widows' inheritance rights in matrimonial properties.

The findings of this study concur with Banda (2008) who describes that, across all of Zambia's 72 ethnic tribes and cultures, widows are subjected to patriarchal, customary and religious laws and confront discrimination in inheritance rights. Many of these widows suffer abuse and exploitation at the hands of family members, often in the context of property disputes.

#### **4.3.2 Community Awareness on the Customary Laws**

On the other hand, the study was interested to know what the participants could say if there was public awareness on the identified customary laws as presented in Table 4.10.

**Table 4.10: Awareness of the Community of Customary Laws**

<b>Responses</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	52	43.3
No	69	56.7
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Observations in Table 4.10 show that, the majority of the participants (56.7%) felt that the public was not aware of the customary laws against 43.3% who agreed on that, this means that the majority of the general public was not aware of the customary laws. These findings suggest that, despite the fact that people know the

existence of various types of inheritances laws yet they are not largely known to the public.

#### **4.3.3 Is Customary Law Gender Balanced?**

The study further asked the participants to state if the customary laws were gender balanced as indicated in Table 4.11.

**Table 4.11: Respondents' Response whether Customary Laws are Gender Balanced**

<b>Response</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	39	32.5
No	51	42.5
I don't know	30	25
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Table 4.11 shows that, 32.5% of the participants felt that the customary laws are gender balanced while 42.5% felt that the laws are not gender balanced and 25% of the participants knew nothing on this aspect. Based on the study findings it implies that, the majority of respondents felt that the customary laws available were not very much gender balanced.

#### **4.3.4 Ability of Customary Law to Safeguard the Widow's Inheritance Rights in Matrimonial Properties**

The objective of this question was to examine the effectiveness of customary law on protecting widow's inheritance rights in matrimonial properties as expected.

**Table 4.12: Responses on whether Customary Laws Safeguard the Rights of Widows**

<b>Responses</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	33	27.5
No	69	57.5
I don't know	18	15
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Results in Table 4.12 reveal that, 27.5% of respondents felt that customary laws safeguarded the rights to matrimonial properties among widows; this means the laws were effective in protecting widows to inheritance rights in matrimonial properties, 57.5% did not agree on that statement whereas 15% knew nothing on such aspect. This data led to a conclusion that, there is a great number of people who felt that customary laws were ineffective in protecting the widow's inheritance rights in matrimonial properties as expected.

These findings were further supported by Benschorp (2002) who argues that, despite facing various problems after the death of their husbands such as property grabbing and maladministration of the deceased's estates by people appointed as administrators as well as the practice of degrading rituals such as cleansing by sex, widow inheritance, the practice of levirate<sup>1</sup> and accusations of witchcraft and life-threatening mourning and burial rites are examples of human rights violations that are justified by "reliance on culture" and "tradition"; Few cases proceed successfully through the justice system, perpetrators go unpunished, while others remain undeterred and undetected. The findings of this study therefore reveal that, the ability

of customary law to safeguard the widow's inheritance rights in matrimonial properties has been weak.

#### **4.3.5 Availability and Effectiveness of Legal Institutions Dealing with Women Rights**

The study also asked respondents to state the legal institutions they knew were dealing with protecting the widow's inheritance rights in matrimonial properties as presented in Table 4.13.

**Table 4.13: Legal Institutions Dealing with Women Rights**

<b>Responses</b>	<b>Frequency</b>	<b>Percentages</b>
<b>Public institutions</b>		
Court of laws	63	52.5
Social welfare department	51	42.5
Police gender and children desk	64	53.4
<b>Local private institutions</b>		
SAUTI ya wanawake	32	26.7
NOLA	16	13.4

Source: Field Data (2016)

Observations in Table 4.13 reveals that, respondents are aware of the existence of various public and private legal institutions that protect the widow's inheritance rights in matrimonial properties; the public institutions included the court of laws as revealed by 52.5% of respondents that the existence of social welfare department was revealed by 42.5% of respondents as well as the police gender and children desk was indicated by 53.4%. Respondents reported that, two private legal institutions were identified such as SAUTI ya Wanawake NGO as revealed by 26.7% and NOLA



which was indicated by 13.4% of the respondents. It is true to ascertain that, the public institutions were known to most of respondents than private ones.

The present data conforms with the report by Women in Development Technical Assistance Project (2003), which underpins the importance of securing women's property and inheritance rights has been supported by a growing number of national laws, as well as in international legal instruments in the context of both development and equality (example, in the International Covenants on Economic, Social, Cultural Rights and on Civil and Political Rights, the Platform of Action adopted at the 1995 Beijing World Conference on Women, the national women associations such as Tanzania Gender and Networking programme (TGNP).

#### **4.3.6 Effectiveness of Legal Institutions Dealing with Women Rights**

Apart from identifying the legal institutions, the participants were asked to state whether they felt that the legal institutions dealing with women rights especially in protecting the rights of widows were effective as shown in Table 4.14.

**Table 4. 14: Responses on whether the Legal Institutions were Effective**

<b>Responses</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	36	30
No	63	52.5
I don't know	21	17.5
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

It was observed that, 30% of respondents felt that the legal institutions were effective where as 52.5% did not agree with the statement meaning that, the institutions were

not effective. However, 17.5% of respondents revealed to know nothing on this matter. It is therefore important to conclude that, majority of people were of the opinion that, the existing legal institutions that protect the widow's inheritance rights in matrimonial properties were ineffective.

These findings are supported by Banda (2008) who reports that, the Constitution of some countries have serious flaws in the legal protection of women and promotes patriarchy and discrimination. The Constitution of Malawi specifically excludes from the application of the non- discrimination clause personal law matters, including widows rights of inheritance, which are governed by customary law which often enshrines patriarchal customs and practices which discriminate severely against women. This remains to be a challenge in Tanzania despite the country being a signatory to many international human rights treaties among them CEDAW.

#### **4.4 Socio-economic Effects of Ineffective Customary Law in Protecting Widow's Inheritance Rights in Matrimonial Properties**

The objective of this question was to examine the socio-economic effects of ineffective customary laws on widows' inheritance rights in matrimonial properties. The research was expected to get opinion from respondents, hence the number of question asked are presented under following sub-headings.

##### **4.4.1 The Socio-economic Effects of Ineffective Customary Laws**

On one part, it was decided that the study directly examines the socio-economic effects of ineffective customary laws in protecting the widows' inheritance rights in matrimonial properties as depicted in Table 4.15.

**Table 4.15: Effects Caused by Customary Law for Widows**

<b>Effects</b>	<b>Effects</b>	<b>Frequency</b>	<b>Percent</b>
Socially	To leave matrimonial home	43	35.9
	To be inherited by decease relatives	55	45.9
	Stigmatization especially by men	79	65.9
	Lack of respect among relatives	70	58.4
	Loss of friends and social support	47	39.1
Economically	Poverty	90	75
	Financial dependency	46	38.4
	Disinheritance of matrimonial properties	82	68.4
	Property grabbing by relatives	91	75.9
	Loss of home and asserts	23	19.1
	Poor economic status	7	5.9

Source: Field Data (2016)

#### **4.4.1.1 Social Effects**

Respondents identified various social effects caused by ineffective customary laws. The results are as shown in Table 4.15 whereby 35.9% of respondents indicated that, ineffective customary laws led to leave of matrimonial home among widows, 45.9% agreed that, it culminated the widows to be inherited by husband's relatives, 65.9% revealed that, it led to stigmatization of the widows especially by men and some other women, 58.4% revealed the effect of lack of respect among relatives and loss of friends and social support among widows was revealed by 39.1%. These data entail that, stigmatization and lack of respect were common social problems faced by widows as a results of ineffective customary laws in protecting the widows' inheritance rights in matrimonial properties.

The report by Ahonsi *et al.*, (2001) support the findings of this study by revealing that, normal social effects of weak customary laws to widows including survivors' reaction with shock and disbelief, overwhelming sadness, some people cry almost constantly, many suffer physical symptoms like insomnia, shortness of breath and loss of appetite. Some fear that, they will have an emotional brake-down; some drink too much or sedate themselves with tranquilizers.

On long time effects include searching the meaning of such deaths to other social cultural factors but with other survivors becoming more active socially, getting out more, seeing people, resuming their interest. At this point, survivors feel stronger, knowing that they have come through an ordeal. However, there are other cases in which the survivors find it very difficult to cope and adjust to their new status in life and as such their social reputation is adversely affected.

#### **4.4.1.2 Economic Effects**

All respondents such as widows, officers and normal citizens were able to reveal various economic effects experienced by widows as a result of ineffective customary laws in protecting the widows' inheritance rights in matrimonial properties.

As the findings reveal in Table 4.15 75% of respondents agreed that, ineffective customary law leads to spread of poverty, 38.4% supported that, it leads to financial dependency among widows, 68.4% of respondents supported that, it leads to disinheritance of matrimonial properties among widows. On the other hand, 75.9% of respondents revealed that, widows are economically affected as they are grabbed off their properties by husbands relatives since the laws are weak, 19.1% of

respondents revealed the loss of home and assets among widows is a common economic effect where 5.9% revealed that it leads to poor economic status among widows.

In support of the findings revealed in this study, the report by the Institute of Economic Affairs, (2008) reports that, gender inequalities (especially for women) were heavily attributed to limited economic opportunities. The resultant economic effects include; limited access and control over productive resources, lack of access to financial services, insufficient access to education, lack of skill, limited access to technology, cultural impediments and other constraints limiting employment options and participation in decision making. All these serve to seriously constrain women's ability to effectively participate in and benefit from economic development.

#### **4.5 Efforts taken by the Government to Overcome the Effects of Customary Law on Widows' Inheritance Rights in Matrimonial Properties**

The last objective of this study aimed to explore the effort taken by the government to overcome the effects of customary law on widows' inheritance rights in matrimonial properties. The data obtained are discussed in the following sub-sections.

##### **4.5.1 Does Customary Law Fit in the Current Situation?**

Respondents were asked to state whether the current customary laws were fit in the current situation as shown in Table 4.16.

**Table 4.16: Responses on whether Customary Laws fit in the Currents Situation?**

<b>Responses</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	40	33.4
No	60	50
I don't know	20	16.7
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

Results in Table 4.16 show that, 33.4% of the respondents agree that the current customary laws are fit in the existing situations, 50% of respondents reported that the laws didn't fit in the current situation and 16.7% of respondents could not know if the laws were fit or not. These findings imply that, majority of people felt that, the laws do not fit in the current situation when it came to protecting the rights of widows in inheritance rights in matrimonial properties.

#### **4.5.2 Does Customary Law Need Amendments?**

Furthermore, participants were asked to state if the customary laws in relation to protecting widows' inheritance rights in matrimonial properties needed amendments as shown in Table 4.17.

**Table 4.17: Whether Customary Laws Need Amendments**

<b>Response</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	88	73.4
No	10	8.4
I don't know	22	18.4
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

It is observed in Table 4.17 that, 73.4% of the participants accepted that the laws needed amendments while 8.4% didn't accept the need for such amendment and 18.4% of respondents reported to know nothing. Such data imply that majority of respondents felt that there was a need to amend the laws.

#### **4.5.3 Effort Done by Government to Address the Problem?**

Participants were also asked to state if they understood the government's efforts to address the weaknesses of the customary laws in protecting the widows' inheritance rights in matrimonial properties as per Table 4.18.

**Table 4.18: Whether there are Government Efforts to Address Problems facing Customary Laws**

<b>Responses</b>	<b>Frequency</b>	<b>Percentages</b>
Yes	51	42.5
No	41	34.1
I don't know	28	23.4
<b>Total</b>	<b>120</b>	<b>100</b>

Source: Field Data (2016)

The results in Table 4.18 reveal that, 42.5% of respondents are aware that the government was taking various efforts to address the weaknesses of the studied laws, 34.1% of respondents are unaware and 23.4% of respondents didn't know. The results lead to a conclusion that, the efforts undertaken by the government to address weaknesses of the customary laws in protecting inheritance rights in matrimonial properties were known to a good number of citizens.

#### 4.5.4 Government Efforts to Improve the Role of Customary Laws

In this sub-section, participants were asked to state specific government efforts in addressing the weaknesses of the laws and the data are presented in Table 4.19.

**Table 4.19: The Government Efforts in Addressing Problems Facing Customary Laws**

<b>Efforts</b>	<b>Frequency</b>	<b>Percentages</b>
Introduction of legal institutions	30	25
Rising awareness to the community	50	41.7
Application of law and polices	10	8.4
I don't know	20	16.6

Source: Field Data (2016)

Table 4.19 reveals that, the efforts taken by the government in addressing weaknesses of the customary laws. It is observed that, among the efforts taken is the introduction of legal institutions which is revealed by 25% of respondents, rising awareness to the community was revealed by 41.7% of respondents, application of law and polices as revealed by 8.4% of respondents and 16.6% of respondents who do not know any efforts. The data implies that, rising awareness among the people was the most common government effort known among the participants.

#### 4.5.6 The Weaknesses of the Government Efforts

Participants were further asked to state the weaknesses of the government efforts in improving the customary laws in protecting inheritance rights in matrimonial properties among widows as analyzed in Table 4.20.



**Table 4.20: Weaknesses of the Efforts Taken by the Government to Address the Customary laws**

<b>Weaknesses</b>	<b>Frequency</b>	<b>Percentages</b>
Lack of strong political will	33	27.5
Lack of education among the citizens	57	47.5
Lack of Swahili translated laws	74	61.7
Little awareness among the people	29	24.1

Source: Field Data (2016)

Findings in Table 4.20 show that, participants were able to identify various government weaknesses hindering effectiveness of the customary laws in protecting inheritance rights in matrimonial properties as indicated by 27.5% of respondents mentioned lack of strong political will, 47.5% of respondents said there is lack of education among the citizens, 61.7% of respondents there is lack of Swahili translated laws and 24.1% of respondents identified the weakness of little awareness among the people on existing laws as well as the existence of legal institutions dealing with such matters. As such the study learned that, lack of Swahili translated laws and lack of education among the people were major weaknesses of the government efforts in addressing the effectiveness of the customary laws in protecting inheritance rights in matrimonial properties among widows.

The findings in this case relates to the one discovered in Nigeria's statutory marriage where the inheritance law is governed by the Marriage Act of 1990. It has been discovered that, where there is a will, the property will be administered in accordance with the wishes of the deceased which was reported to me more a theoretical stance than reality. Worse still, multiplicity of laws on inheritance leaves a gap that permits the courts and traditionalists who include unscrupulous relatives to

choose the laws that are beneficial to their self interest, and most often, to the disadvantage of the bereaved woman. The relatives of the deceased usually regard such property as family property and a birth right (Nwoga *etal.*, 1989; Nwebo & Eze, 1989). This type of report shows serious flaws in the customary laws geared at protecting widows' rights to matrimonial properties.

#### **4.5.7 Measures to Improve the Effectiveness of Customary Laws in Protecting Widow Rights**

Finally, the study wanted to know what participants would recommend as measures to improve the effectiveness of customary laws in protecting inheritance rights in matrimonial properties among widows as far as various weaknesses were mentioned as shown in Table 4.21.

**Table 4.21: Measures to Improve Effectiveness of Customary Laws in Protecting Widow Rights**

<b>Measure</b>	<b>Frequency</b>	<b>Percentages</b>
Introduction of more legal institutions	36	30
Rising awareness to the community	58	48.4
Create widow law groups	42	35
Translate the laws into Swahili	43	35.9

Source: Field Data (2016)

Table 4.21 reveals that, 30% of respondents suggested the need to introduce more legal institutions gearing at supporting widow rights to matrimonial properties, 48.4% of respondents recommended the need to raise awareness to the community on the application of customary laws in protecting widows' rights to matrimonial properties, 35% of participants suggested the need to create widow law groups which

shall assist widows' to protect their rights to matrimonial properties under the current laws and 35.9% of participants recommended the need to translate such customary laws protecting widows' rights to matrimonial properties into Swahili so that they could be understood by majority of the people.

Generally, raising the awareness among the people and especially widows on the existence and roles of customary laws in protecting the inheritance rights in matrimonial properties among widows was highly recommended by the respondents.

#### **4.6 Interview**

Through interview with ward social welfare officer who committed to be the one who help widow's to solve their problems, findings shows that, the number of widows who comes to the office to report about their problems are very few, the officer said that, most of the widows are not interested to report their problems because their afraid to disclose information through that they are afraid male relatives, lack of awareness and others feel shame. This situation indicates that there is high rate of issues associated with widow's rights to inherit matrimonial properties in the ward.

#### **4.7 Observation**

The researcher observed that most of widows in Ruanda ward engaged in small business such as selling fish, vegetables and fruits. Poor standard of living and stigmatized were also attached from male relatives.

#### **4.6 Chapter Summary**

This chapter has presented, analyzed and discussed the findings as collected from the field. It has been discovered that, various laws were available and applicable in protecting widows' rights to matrimonial properties. However, such laws were constrained by various weaknesses, which limited the ability of such laws to effectively protect such widow rights. Despite of various government efforts to improve the role of customary laws in protecting widows' rights to matrimonial properties, the findings suggest the need to continue improving the role of customary laws in protecting widows' rights to matrimonial properties.

## **CHAPTER FIVE**

### **CONCLUSION AND RECOMMENDATIONS**

#### **5.1 Introduction**

This chapter presents summary, conclusion and recommendations of the study. The conclusions presented here are based on the key findings of the study, as derived from the empirical study, which was discussed in chapter three, chapter four as well as the literature review, which was presented in chapter two.

#### **5.2 Summary of Findings**

The purpose of this study was to investigate the effects of customary laws on widows' inheritance rights in matrimonial properties at Ruanda Ward, in Mbeya City, Tanzania. The specific objectives of this research were to examine the effectiveness of customary law on widows' inheritance rights in matrimonial properties, identify the social-economic effects of customary law on widows' inheritance rights in matrimonial properties, and assess the effort taken by the government to overcome the impact of customary law on widows' inheritance rights in matrimonial properties.

The study employed a survey research design and participants of the study varied from government officers, lawyers, widows and general citizens of Ruanda ward in Mbeya city. The total number of study sample was 120 respondents. The following sampling designs snowball, purposive and stratified simple random sampling were used to arrive at the sample. Questionnaires and interviews were used to collect information from the field and the analysis of data involved both qualitative and quantitative techniques.

### **5.2.1 The Effectiveness of Customary Law on Widows Inheritance Rights in Matrimonial Properties**

The study findings revealed that, majority of respondents 90% were aware that widows faced problems in matrimonial property inheritance after the death of husbands. The types of harassments discovered included; denied right to inherit family properties, denied legal capacity to own and administer property and denied rights and responsibilities with regard to their children. The existence of such problems implies that, the effectiveness of customary law on widows' inheritance rights in matrimonial properties was questioned. The findings also discovered that, the customary 58.4% and Islamic 16.7% laws were main laws known to be dealing of widows' inheritance rights in matrimonial properties. However 56.7% of respondents felt that, the laws were not well known to majority of widows and the people at large. Moreover, 57.5% of respondents felt that, the laws were weak in safeguarding widows' inheritance rights in matrimonial properties despite having known various legal institutions that deal with widows' problems such as courts, welfare departments, police gender and children desk as well as private institutions as exemplified by Sauti ya Wanawake found within the ward. Generally, 52.5% of the participants felt that the overall customary laws available were not effective in protecting widows' inheritance rights in matrimonial properties.

### **5.2.2 Social-economic Effects of Customary Law on Widows Inheritance Rights in Matrimonial Properties**

Various socio-economic effects were discovered as customary law effects as the study discovered that, the customary laws were not effective enough in protecting

widows' inheritance rights in matrimonial properties. It was further discovered that, socially the ineffective customary laws led majority of widows to leave matrimonial homes after being forced by husband's relatives, some were forced to be inherited as wives to brothers of the deceased husband, stigmatization of widows especially by men as well as lack of respect among relatives. Generally, stigmatization by many men was the highest effect as identified by 65.9% of the respondents.

The economic effects noted by this study included; increased poverty among widows, increase of financial dependency, property grabbing by relatives, and disinheritance of matrimonial properties to most of widows as well as loss of home and asserts. However, property grabbing by relatives was seen as the major economic effect as it was identified by highest percent (75.9%) of the respondents.

### **5.2.3 Efforts Taken by the Government to Overcome the Weaknesses of Customary Law on Widows Inheritance Rights in Matrimonial Properties**

The study findings have shown that, respondents were aware of the existence of various efforts undertaken by the government to overcome the weaknesses of the customary laws in protecting widows' rights to matrimonial properties.

The findings revealed that, 42.5% of respondents were aware of the efforts taken by the government to overcome the impact of customary law on widows' inheritance rights in matrimonial properties. The notable revealed efforts included; introduction of various legal institutions, supervising the implementation and application of various laws and policies and rising awareness to the community on the need to

protect and observe customary law on widows' inheritance rights in matrimonial properties.

However, it was discovered that, despite the enormous efforts taken, the government was constrained by various weaknesses which hindered the ability of the efforts to fully bring the required results. The problems included, lack of strong political will, lack of education among the citizens, lack of Swahili translated laws and little awareness among the people.

Research participants therefore were able to suggest various measures to be taken to improve the role of customary laws to protect widows' inheritance rights in matrimonial properties such as introduction of more legal institutions, rising awareness among the community, translate the existing laws into Swahili and assist in creating widow law groups.

Thus the research data suggest that, despite the presence of several efforts taken by the government to improve the role of customary laws in protecting widows' inheritance rights to matrimonial properties, the study confirmed that, there were more problems hindering such efforts which in turn weaken the ability of such laws to protect widows' rights. This shows the importance of strengthening the role of such laws so as to ensure effective protection of widows' inheritance rights to matrimonial properties.

### **5.3 Conclusions**

From the study findings, it can be deduced that, effects of customary law in widows' inheritance rights in matrimonial properties in the study area was revealed in various



stances. The following conclusions were made from the findings: the customary laws geared at protecting widows' inheritance rights in matrimonial properties were not effective enough since they were not well known to the people and that they contributed to continued existence of various social economic problems among widows such as poverty and denied rights to own property.

Continued existence of harassments discovered including; denied right to inherit family properties, denied legal capacity to own and administer property and denied rights and responsibilities with regard to their children revealed the ineffectiveness of the customary laws. Despite having various legal institutions such as welfare department and court of laws, the government efforts in strengthening the roles of customary laws through such institutions were constrained by various problems such as lack of enough awareness among the people and lack of Swahili translated laws which could benefit majority of victims whose common language is Swahili.

Furthermore, the findings revealed that, sound customary laws in protecting inheritance rights to matrimonial properties among widows is not a choice but a compulsory since it is regulated by the government. Advocating the effective customary laws in this case as an organisational and societal benefit is therefore not an activity to be taken for granted?

Ignorance on the roles of such roles can have adverse effects to the ability of widows' rights to matrimonial properties and can drain socio-economic resources, and that will ultimately affect rights of widows' to matrimonial properties.

#### **5.4 Recommendations**

The findings of the study indicate that, customary law were not effective enough to protect widows inheritance rights in matrimonial properties as community are not aware, the researcher has the following recommendations, the government need to conduct seminars and workshop that create awareness on applicability of various laws of inheritance to the areas where awareness rates are low and to the outreach places media should be emphasized to increase awareness on the rights of the widows, the government and legal institutions need to translate the customary law in order to protect widows rights to matrimonial properties for easy usage among Swahili speakers.

Findings show that, customary laws seems to be largely dealing with welfare of widows inheritance in matrimonial properties, the researcher advises the government to review the existing customary laws that will enable to solve and to favor the rights and welfare of widows.

The study results found that, the customary laws was gender balance, the researcher recommended that, government, institutions and community should recognize the moral ethics and social obligation as essential to eradicate negative attitude operating in the country. The availability of gender issues in all programs and in all levels is very important in order to remove gender disparities and discrimination or humiliation among women.

The present findings reveal that, the existing legal institutions that protect the widows' inheritance rights in matrimonial properties are ineffective, therefore, the

researcher recommends the government should supervise private institution, to adhere the available laws, polices and regulations, in addition, the institutions have to increase their efforts to enlighten women rights.

The study states that, economically and socially women are still oppressed, humiliated and discriminated through; eviction from matrimonial homes and became financial dependant, the researcher suggests that, it's better for widows to join in the income generating groups that will help them to get loans. Department of community development should enhance their mobilization and assistance through training in different economic activities. On the social aspect, the community should stop practicing negative culture and traditional beliefs.

Present findings show the existence of effort done by government to improve the role of customary laws on widows' inheritance rights. Unfortunately, the efforts were weak, hence there should be tireless efforts from the government to supervise and support programs, activities and projects which deals with women rights. Therefore, the researcher found that, there is a need to amend laws of inheritance especially local customary law of 1963. The customary laws therefore should prudently be strengthened to an extent of becoming effective and can contribute strongly in the protection of widows' inheritance rights in matrimonial properties.

## **5.5 Recommendations for Further Research**

The recommendations for further studies include':

- (i) A study on the influence of legal institutions on protecting customary laws protecting widows' rights to matrimonial properties. This type of study would

enhance the application of legal institutions by widows in search for their rights as the role of such institutions is not quite known among the people as discovered in this study.

- (ii) A study on the contribution of widow groups in protecting customary laws affecting widows' rights to matrimonial properties can also be conducted. This would guarantee spread of information and assistance among widows themselves as well as other agencies as the importance of such groups has not been widely researched.

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## **APPENDICES**

### **Appendix 1: Questionnaire**

My name is Habiba A. Ibrahim; I am a student pursuing masters of Arts in Social Work at the Open University of Tanzania with registration number HD/A/340/T.11. This questionnaire designed to explore the information about the effects of customary law on widow's inheritance rights in matrimonial properties case of Ruanda ward in Mbeya city. Kindly I am here requesting for the cooperation to answer the following questions, therefore the information will be confidential and only it will be academic purposes. Thank you in advice.

#### **INSTRUCTIONS**

This questionnaire consists of four {4} parties such as part A B C and D

Follow instructions that given in each part of this questionnaire

#### **A: PERSONAL INFORMATION**

This part should be answered by all

Put a tick [ ] in an appropriate space provided.

##### **1. Gender**

- a) Male [ ]
- b) Female [ ]

##### **2. Age group**

- a) 18-25 [ ]
- b) 26-35 [ ]
- c) 36-45 [ ]
- d) 45+ [ ]

##### **3. Education level**

- a) Primary education [ ]
- b) Secondary education [ ]

c) Higher education [ ]

d) Others [ ]

4. Religion affiliation

a) Christian [ ]

b) Islamic [ ]

c) Others [ ]

5. Marital status

a) Single [ ]

b) Married [ ]

c) Widow/widower [ ]

d) Divorced [ ]

e) Separate [ ]

6. Occupation status

a) Employed [ ]

b) Unemployed [ ]

c) Self-employed [ ]

d) Others [ ]

Please read the question the give your opinion and put a tick [ ] in provided space

1. What do you understand by customary law?

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2. Does customary law effectively?

a) Yes [ ]

b) No [ ]

c) I don't know [ ]

3. What are the effects caused by the customary law?

I. Socially

a) To leave matrimonial home [ ]

- b) To be inherited by deceased relatives [   ]
- c) Disinheritance of matrimonial properties [   ]
- d) Property grabbing [   ]
- e) None of them [   ]

## II. Economically

- a) Poverty [   ]
- b) Financially dependent [   ]
- c) Loss of homes and assets [   ]
- d) Poor economic status [   ]
- e) None of them [   ]

4. What are the major causes of the effects mentioned above?
  - a) Inferiority complex among women themselves [   ]
  - b) Lack of awareness among community [   ]
  - c) The existence of weak and outdated laws of inheritance [   ]
  - d) Traditional, customs and legal system [   ]
  - e) Others [   ]
5. What are the impacts of the mentioned effects above?
  - a) Poverty [   ]
  - b) Potential of diseases example HIV/AIDS and STDs [   ]
  - c) Family disintegration [   ]
  - d) Street children [   ]
6. Does this customary law safeguarding the rights of widow's inheritance in matrimonial properties?
  - a) Yes [   ]
  - b) No [   ]
  - c) I don't know [   ]
7. Is customary law gender balanced?
  - a) Yes [   ]
  - b) No [   ]
  - c) I don't know [   ]
8. Is there any effort taken by the government to overcome the impact of customary law on widow's inheritance rights in matrimonial properties?

- a) Yes [ ]
- b) No [ ]
- c) I don't know [ ]

9. What are those efforts?

- a) Introduction of legal institutions dealings with the women's rights [ ]
- b) Rising awareness to the community [ ]
- c) Applications of law and policies [ ]
- d) Others [ ]

10. Are those mentioned efforts above effectively?

- a) Yes [ ]
- b) No [ ]
- c) I don't know [ ]

11. On your opinion what should be done to remove the effects of customary law on widows inheritance rights in matrimonial properties

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## C: WIDOWS

Only widows should answer the question of this part.

1. Is there any harassment that widows facing after their husband death?

- a) Yes [ ]
- b) No [ ]
- c) I don't know [ ]

If YES, which kind of harassment

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2. Which laws favours' the welfare of widow's inheritance matters?

- a) Islamic laws [    ]
- b) Indian succession Act of 1865 [    ]
- c) Local customary decoration order of 1963 [    ]
- d) Hindu law [    ]
- e) Others [    ]

3. Do you know any legal institution which deals with women rights?

- a) Yes [    ]
- b) No [    ]
- c) I don't know [    ]

If YES, please mention some of them

4. Are those legal institution mentioned above effective?

- a) Yes [    ]
- b) No [    ]
- c) I don't know [    ]

If YES, explain how

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If NO, explain why

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THANK YOU

## Appendix 2: Questionnaires for Officials

Only government and non government officials should answer these questions

1. Are there any problems widows are experiencing after their husband death?

a) Yes [ ]

b) No [ ]

c) I don't know [ ]

If YES, mention some of them

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2. Do mentioned problems above have any impact to their life of widows?

a) Yes [ ]

b) No [ ]

c) I don't know [ ]

If YES, please mention some of them

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3. Do the customary laws fit for the current situation?

a) Yes [ ]

b) No [ ]

c) I don't know [ ]

If yes how

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If no why

4. Does customary law need amendments?

a) Yes [ ]

b) No [ ]

c) I don't know [ ]

5. Do the community aware with women's rights?

a) Yes [ ]

b) No [ ]

c) I don't know [ ]

6. On your opinion what should women do to attain their rights?

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7. What are your recommendents to the government in creating balance between men and women rights?

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THANK YOU